
ENGROSSED SUBSTITUTE HOUSE BILL 2406

State of Washington

63rd Legislature

2014 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Tarleton, Short, Ryu, and Smith; by request of Utilities & Transportation Commission and Energy Facility Site Evaluation Council)

READ FIRST TIME 01/30/14.

1 AN ACT Relating to administrative processes for managing deposits
2 and cost reimbursements of the energy facility site evaluation council;
3 amending RCW 80.50.071; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 80.50.071 and 2011 c 261 s 1 are each amended to read
6 as follows:

7 (1) The council shall receive all applications for energy facility
8 site certification. Each applicant shall pay ~~((such-reasonable))~~
9 actual costs ~~((as-are-actually-and-necessarily))~~ incurred by the
10 council and the utilities and transportation commission in processing
11 an application.

12 (a) Each applicant shall, at the time of application submission,
13 deposit with the utilities and transportation commission an amount up
14 to fifty thousand dollars, ~~((or-such-greater-amount))~~ as ~~((may-be))~~
15 specified by the council after consultation with the applicant.
16 ~~((Costs that may be charged against the deposit include, but are not~~
17 ~~limited to, -independent-consultants'-costs,-councilmember's-wages,~~
18 ~~employee-benefits,-costs-of-a-hearing-examiner,-costs-of-a-court~~
19 ~~reporter,-staff-salaries,-wages-and-employee-benefits,-goods-and~~

1 ~~services, travel expenses, and miscellaneous direct expenses as arise~~
2 ~~directly from processing an application.))~~ The council and the
3 utilities and transportation commission shall charge costs against the
4 deposit if the applicant withdraws its application and has not
5 reimbursed the commission, on behalf of the council, for all actual
6 expenditures incurred in considering the application.

7 (b) The council may commission its own independent consultant study
8 to measure the consequences of the proposed energy facility on the
9 environment or any matter that it deems essential to an adequate
10 appraisal of the site. The council, after consultation with the
11 utilities and transportation commission, shall provide an estimate of
12 the cost of the study to the applicant and consider applicant comments.

13 (c) In addition to the deposit required under (a) of this
14 subsection, applicants must reimburse the utilities and transportation
15 commission, on behalf of the council, for actual expenditures that
16 arise in considering the application, including the cost of any
17 independent consultant study. The utilities and transportation
18 commission, on behalf of the council, shall submit to each applicant a
19 statement of ~~((such))~~ actual expenditures made during the preceding
20 calendar quarter ~~((which shall be))~~ in sufficient detail to explain
21 ~~((such))~~ the expenditures. The applicant shall pay the ~~((state~~
22 ~~treasurer))~~ utilities and transportation commission the amount of
23 ~~((such statement to restore the total amount on deposit to the~~
24 ~~originally established level: PROVIDED, That such applicant may, at~~
25 ~~the request of the council, increase the amount of funds on deposit to~~
26 ~~cover anticipated expenses during peak periods of application~~
27 ~~processing. Any funds remaining unexpended at the conclusion of~~
28 ~~application processing shall be refunded to the applicant, or at the~~
29 ~~applicant's option, credited against required deposits of certificate~~
30 ~~holders))~~ the statement by the due date referenced on the statement.

31 (2) Each certificate holder shall pay ~~((such reasonable costs as~~
32 ~~are actually and necessarily))~~ the actual costs incurred by the council
33 and utilities and transportation commission for inspection and
34 determination of compliance by the certificate holder with the terms of
35 the certification relative to monitoring the effects of construction,
36 operation, and site restoration of the facility.

37 (a) Each certificate holder shall, within thirty days of execution
38 of the site certification agreement, ~~((shall have on))~~ deposit with the

1 utilities and transportation commission an amount up to fifty thousand
2 dollars, (~~or such greater amount~~) as (~~may be~~) specified by the
3 council after consultation with the certificate holder. (~~Costs that~~
4 ~~may be charged against the deposit include, but are not limited to,~~
5 ~~those specified in subsection (1)(a) of this section as arise from~~
6 ~~inspection and determination of compliance by the certificate holder~~
7 ~~with the terms of the certification.)~~ The council and the utilities
8 and transportation commission shall charge costs against the deposit if
9 the certificate holder ceases operations and has not reimbursed the
10 commission, on behalf of the council, for all actual expenditures
11 incurred in conducting inspections and determining compliance with the
12 terms of the certification.

13 (b) In addition to the deposit required under (a) of this
14 subsection, certificate holders must reimburse the utilities and
15 transportation commission, on behalf of the council, for actual
16 expenditures that arise in determining compliance. The council, after
17 consultation with the utilities and transportation commission, shall
18 submit to each certificate holder a statement of (~~such~~) the
19 expenditures actually made during the preceding calendar quarter
20 (~~which shall be~~) in sufficient detail to explain (~~such~~) the
21 expenditures. The certificate holder shall pay the (~~state treasurer~~)
22 utilities and transportation commission the amount of (~~such statement~~
23 ~~to restore the total amount on deposit to the originally established~~
24 ~~level: PROVIDED, That if the actual expenditures for inspection and~~
25 ~~determination of compliance in the preceding calendar quarter have~~
26 ~~exceeded the amount of funds on deposit, such excess costs shall be~~
27 ~~paid by the certificate holder~~) the statement by the due date
28 referenced on the statement.

29 (3) If an applicant or certificate holder fails to provide the
30 initial deposit, or if subsequently required payments are not received
31 within thirty days following receipt of the statement from the council,
32 the council may (a) in the case of the applicant, suspend processing of
33 the application until payment is received; or (b) in the case of a
34 certificate holder, suspend the certification.

35 (4) All payments required of the applicant or certificate holder
36 under this section are to be made to the (~~state treasurer~~) utilities
37 and transportation commission who shall make payments as instructed by
38 the council from the funds submitted. All such funds shall be subject

1 to state auditing procedures. Any unexpended portions (~~(thereof)~~) of
2 the deposit shall be returned to the applicant (~~(or certificate~~
3 ~~holder)~~) within sixty days following the conclusion of the application
4 process or to the certificate holder within sixty days after a
5 determination by the council that the certificate is no longer required
6 and there is no continuing need for compliance with its terms. For
7 purposes of this section, "conclusion of the application process" means
8 after the governor's decision granting or denying a certificate and the
9 expiration of any opportunities for judicial review.

10 (5)(a) Upon receipt of an application for an energy facility site
11 certification proposing an energy plant or alternative energy resource
12 that is connected to electrical transmission facilities of a nominal
13 voltage of at least one hundred fifteen thousand volts, the council
14 shall notify in writing the United States department of defense. The
15 notification shall include, but not be limited to, the following:

16 (i) A description of the proposed energy plant or alternative
17 energy resource;

18 (ii) The location of the site;

19 (iii) The placement of the energy plant or alternative energy
20 resource on the site;

21 (iv) The date and time by which comments must be received by the
22 council; and

23 (v) Contact information of the council and the applicant.

24 (b) The purpose of the written notification is to provide an
25 opportunity for the United States department of defense to comment upon
26 the application, and to identify potential issues relating to the
27 placement and operations of the energy plant or alternative energy
28 resource, before a site certification application is approved. The
29 time period set forth by the council for receipt of such comments shall
30 not extend the time period for the council's processing of the
31 application.

32 (c) In order to assist local governments required to notify the
33 United States department of defense under RCW 35.63.270, 35A.63.290,
34 and 36.01.320, the council shall post on its web site the appropriate
35 information for contacting the United States department of defense.

36 NEW SECTION. Sec. 2. Nothing in this act extends or modifies the
37 jurisdiction of the energy facility site evaluation council or the

1 utilities and transportation commission with respect to any energy
2 facility that is not subject to the jurisdiction of the energy facility
3 site evaluation council or the utility and transportation commission as
4 of the effective date of this section.

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